

JAN - 9 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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8 **BEFORE THE**
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. VN-2007-627

13 **ORILYNN TUNACAO GIRON a.k.a.**
14 **ORILYNN TUNACAO ROXAS**
15 **120 Hemingway Commons**
16 **Martinez, CA 94553**

A C C U S A T I O N

17 **Vocational Nurse License No. VN 206440**

18 Respondent.

19 Complainant alleges:

PARTIES

20 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
21 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
22 Technicians (Board), Department of Consumer Affairs.

23 2. On or about October 6, 2003, the Board issued Vocational Nurse License Number
24 VN 206440 to Orilynn Tunacao Giron a.k.a. Orilynn Tunacao Roxas (Respondent). The
25 Vocational Nurse License was in full force and effect at all times relevant to the charges brought
26 herein and will expire on May 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2875 of the Code provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

5. Section 2878 of the Code provides in pertinent part:

“The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, § 2840, et seq.)] for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

“(3) The use of advertising relating to nursing which violates Section 17500.

...

“(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter.

...

“(j) The commission of any act involving dishonesty, when that action is related to the duties and functions of the licensee.”

6. Section 2878.8 of the Code states:

“The board may deny any application or may suspend or revoke any license issued under this chapter [the Vocational Nursing Practice Act] based upon the denial of licensure, suspension, restriction, or other disciplinary action of a license by another state, any other government agency, or by another California health care professional licensing board. A certified copy of the finding shall be conclusive evidence of that action provided that, if from another state, the findings establish an act which if committed in California would be grounds for discipline.”

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7. Section 17500 of the Code states:

“It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.”

8. Section 118, subdivision (b) of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued, or reinstated.

COSTS

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licensee to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FACTUAL BACKGROUND**

4 10. In or around 2007, Respondent advertised a licensed vocational nurse to bachelor of
5 science in nursing program (hereinafter "LVN-BSN program"). Respondent also directly
6 solicited and/or recruited numerous licensed vocational nurses to participate in the LVN-BSN
7 program. Respondent informed prospective students of the following: (1) the LVN-BSN program
8 would be approximately 18 months in length; (2) the cost of the program would be approximately
9 \$22,000; (3) there were no prerequisites for the program (other than being a licensed vocational
10 nurse); (4) classes would be held once a week for four hours at a hotel or at a nursing school in
11 Concord, California; (5) upon completion of the program, a nursing college in the Philippines
12 would grant students a bachelor of science degree in nursing; and (6) after receiving their
13 bachelor of science degree in nursing through the program, students would be eligible to apply to
14 take the registered nurse exam in California.

15 11. In or around 2007 and 2008, various students enrolled in the LVN-BSN program.
16 The students paid Respondent thousands of dollars to enroll in the program, and Respondent
17 accepted their payments. Respondent conducted, organized, planned, administered, and/or taught
18 courses for the LVN-BSN program in California and/or the Philippines.

19 12. The LVN-BSN program is not, and never has been, approved or accredited by the
20 Board of Registered Nursing as a program for training students to become registered nurses.
21 Consequently, persons who complete the LVN-BSN program are not eligible to apply to take the
22 registered nurse exam in California, and therefore are not eligible for licensure as registered
23 nurses under Business and Professions Code section 2736.

24 13. At no point did Respondent inform the LVN-BSN program students, either orally or
25 in writing, that the LVN-BSN program was not accredited or approved by the Board of
26 Registered Nursing, or that completion of the program would not qualify them to take any
27 examination given by the Board of Registered Nursing.

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1 14. On or about October 15, 2007, the Board of Registered Nursing sent a letter to
2 Respondent that stated, in pertinent part, as follows: "The Board of Registered Nursing (BRN)
3 has received information indicating that you are operating an unaccredited registered nursing
4 program and/or an unapproved distance learning program. . . . A search of our records indicates
5 that the above listed program is not an accredited school of nursing nor does it appear that your
6 school is exempt under [Business and Professions Code] Section 2789. Therefore, you are
7 directed to immediately CEASE and DESIST all advertising, course instruction, and any other
8 activities related to pre-licensure registered nursing education until such time that you have both
9 applied and been approved to operate a[] nursing school under applicable California laws and
10 regulations."

11 15. On or about October 22, 2007, Respondent wrote a letter to the Board of Registered
12 Nursing in response to the Board of Registered Nursing's October 15 letter. In her letter,
13 Respondent states the following: "American College of Nursing (ACN) only operates vocational
14 nursing program and does not operate any registered nursing programs or distance learning
15 programs as your letter stated. . . . As part of our expansion in the nearest future, we plan to add
16 an accelerated LVN to BSN bridge program into our list of courses. We are currently studying
17 our options and deciding on a strategic alliance with a degree granting institution"

18 16. After sending the Board of Registered Nursing the letter on October 22, 2007,
19 Respondent continued to conduct, organize, plan, administer, and/or teach courses for the LVN-
20 BSN program in California and/or the Philippines. Respondent also continued to accept
21 thousands of dollars in payments from students.

22 17. On or about March 25, 2010, Respondent signed a declaration under penalty of
23 perjury that states, in pertinent part, as follows: "There was an attempt to start LVN-BSN
24 program w/ PLT College around Feb-March 2007 but the BRN did not respond w/ letter/ courtesy
25 call/ So program was aborted even before it started. Those who gave downpayment during
26 info session, moneys were returned by Orilyn Giron Roxas. I don't recognized the receipt
27 \$3,000.00 and it is not my penmanship or signature. I don't recognized the receipt for \$1,000 (4)
28 payments April May June July 2007 and it is not my signature nor penmanship."

18. On or about August 18, 2011, in a disciplinary action entitled "In the Matter of the Accusation Against Orilynn Tunacao Giron, aka Orilynn Giron-Roxas", Case Number 2012-125, the Board of Registered Nursing filed an Accusation against Respondent alleging numerous violations of the Nursing Practice Act. On or about April 4, 2012, Respondent, pursuant to stipulation, surrendered her Registered Nurse License number 626516 to the Board of Registered Nursing. The surrender of Respondent's Registered Nurse License became effective on July 3, 2012.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

19. Respondent is subject to disciplinary action under section 2878, subdivision (a) of the Code for unprofessional conduct in that Respondent (1) conducted, organized, planned, administered, and/or taught courses for a LVN-BSN program in California and/or the Philippines that was never approved or accredited by the Board of Registered Nursing; (2) accepted thousands of dollars in payments from students for enrollment in the LVN-BSN program; and (3) did not inform the LVN-BSN program students that the program was not accredited or approved by the Board of Registered Nursing, or that completion of the program would not qualify them to take any examination given by the Board of Registered Nursing. The circumstances of Respondent's conduct are set forth above in Paragraphs 10, 11, 12, 13, and 16.

SECOND CAUSE FOR DISCIPLINE

(Use of Advertising that Violates Section 17500)

20. Respondent is subject to disciplinary action under section 2878, subdivision (a)(3) of the Code in that Respondent used advertising relating to nursing that violated section 17500 of the Code. The circumstances of Respondent's conduct are set forth above in Paragraphs 10 and 12.

THIRD CAUSE FOR DISCIPLINE

(Dishonest Act)

21. Respondent is subject to disciplinary action under section 2878, subdivision (j) of the Code in that Respondent (1) misrepresented to the Board of Registered Nursing that she was not operating an unaccredited registered nursing program and/or an unapproved distance learning

1 program; and (2) falsely stated under penalty of perjury that she never started the LVN-BSN
2 program. The circumstances of Respondent's conduct are set forth above in Paragraphs 14, 15,
3 and 17.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Violating Terms of Vocational Nursing Practice Act)**

6 22. Respondent is subject to disciplinary action under section 2878, subdivision (d) of the
7 Code in that Respondent violated section 2878, subdivisions (a), (a)(3), and (j), and section
8 2878.8 of the Code. The circumstances of Respondent's conduct are set forth above in
9 Paragraphs 10 through 18.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Disciplinary Action by Another Licensing Board)**

12 23. Respondent is subject to disciplinary action under section 2878.8 of the Code in that
13 in a prior disciplinary action before the Board of Registered Nursing, Respondent surrendered her
14 Registered Nurse License. The circumstances of Respondent's conduct are set forth above in
15 Paragraph 18.

16 **DISCIPLINARY CONSIDERATIONS**

17 24. To determine the degree of discipline, if any, to be imposed on Respondent,
18 Complainant alleges that effective July 3, 2012, in a disciplinary action entitled "In the Matter of
19 the Accusation Against Orilynn Tunacao Giron, aka Orilynn Giron-Roxas", Case Number 2012-
20 125, before the Board of Registered Nursing, Respondent surrendered her Registered Nurse
21 License pursuant to stipulation. As part of that stipulation, Respondent admitted to the truth of
22 each and every charge and allegation in Accusation No. 2012-125.

23 Accusation No. 2012-125 alleges the following causes for discipline: (1) conducting an
24 unaccredited school of nursing in violation of section 2798 of the Code; (2) unprofessional
25 conduct in violation of section 2761, subdivision (a) of the Code based on Respondent's
26 misrepresentation to the Board of Registered Nursing that Respondent was not operating an
27 unaccredited registered nursing program, and on Respondent's false statement under penalty of
28 perjury that she never started the LVN-BSN program; (3) unprofessional conduct under sections

1 675 and 2761, subdivision (a) of the Code based on Respondent's failure to inform the LVN-BSN
2 students that the LVN-BSN program was not accredited by the Board of Registered Nursing, and
3 that completion of the program would not qualify them to take any examination given by the
4 Board of Registered Nursing; and (4) the use of advertising relating to nursing that violated
5 section 17500 of the Code.

6 The Board of Registered Nursing's decision in Case Number 2012-125 is now final and is
7 incorporated by reference as if fully set forth.

8 **PRAYER**

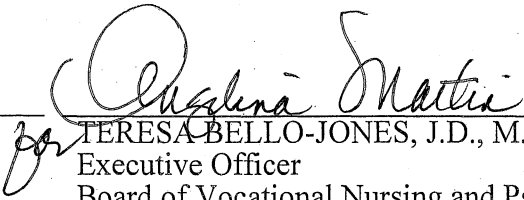
9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
11 issue a decision:

12 1. Revoking or suspending Vocational Nurse License Number VN 206440 issued to
13 Orilynn Tunacao Giron a.k.a. Orilynn Tunacao Roxas;

14 2. Ordering Orilynn Tunacao Giron a.k.a. Orilynn Tunacao Roxas to pay the Board of
15 Vocational Nursing and Psychiatric Technicians the reasonable costs of the investigation and
16 enforcement of this case pursuant to Business and Professions Code section 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: **JAN 09 2013**

20 
21 TERESA BELLO-JONES, J.D., M.S.N., R.N.
22 Executive Officer
23 Board of Vocational Nursing and Psychiatric
24 Technicians
25 Department of Consumer Affairs
26 State of California
27 Complainant
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